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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,496	08/19/2003	Jerome A. Cohen	6842-02-1	5471

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

km

Office Action Summary	Application No. 10/643,496	Applicant(s) COHEN, JEROME A.	
	Examiner M. Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

Claim 1 is objected to because of the following informalities: The semicolon at the end of line 12 should be deleted so as to present unite language serving to define the elongated coupling member. Also, line 9 of claim 1, should "shaped" be –shape-? Or, should –passage- follow "shaped"? Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2, 9, and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear clear and complete as to a spacer or spacers coupled to the foundation form and located so that when the said first and second connecting members are positioned on respective foundation forms the spacer acts as a stop to properly locate each of said connecting members. How particularly, does the U-shaped or flat spacer "extend between the foundation forms"? How is the U-shaped or flat spacer coupled to the foundation forms?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 9, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to what is being defined by claims 2, 9, and 10 since the specification does not appear clear and complete as to a spacer or spacers coupled to the foundation form and located so that when the said first and second connecting members are positioned on respective foundation forms the spacer acts as a stop to properly locate each of said connecting members. How particularly, does the U-shaped or flat spacer "extend between the foundation forms"? How is the U-shaped or flat spacer coupled to the foundation forms?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore. Moore discloses, Figs. 3 and 6, first and second connecting members 26, 27,

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each defining at least one joining portion 25 with each of said first and second connecting members being coupable to an end of a foundation form 9, 10 so that when said forms are operably positioned adjacent to one another said joining portions defined by each of said connecting members interlock with one another. Each joining portion defines a shaped passage extending there through with the shaped passage being substantially coaxial with one another when said first and second connecting members are operably positioned. An elongated coupling member 28 defining an exterior shape complimentary to a shape defined by said shaped passages is slidably received in said shaped passages thereby rotatably and releasably joining said first and second connecting members and thereby said foundation forms together. Spacers are as at 23, 29a. Attaching means is at 23, 29a.

Claims 1, 3-5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nyman. Nyman discloses first and second connecting members 1a, 1b, each defining at least one joining portion 5 with each of said first and second connecting members being coupable to an end of a foundation form 14 so that when said forms are operably positioned adjacent to one another said joining portions defined by each of said connecting members interlock with one another. Each joining portion defines a shaped passage extending there through with the shaped passage being substantially coaxial with one another when said first and second connecting members are operably positioned. An elongated coupling member 6 defining an exterior shape complimentary to a shape defined by said shaped passages is slidably received in said shaped

passages thereby rotatably and releasably joining said first and second connecting members and thereby said foundation forms together. Attaching means in the form of apertures is at 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nyman in view of any of James et al, Zadeh, and Callies.

Each of James et al, Zadeh, and Callies teaches utilization of slots as well as circular openings to fasten hardware to an element, 24b, 34, and 36 of James et al., 34 and 61 of Callies, with Zadeh showing alternate use of slots and circular openings in Figs. 5 and 6. To have provided the Nyman connector with slots in place of circular openings 7, thus allowing for adjusted placement of a fastener upon connection to form 14, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by any of James et al, Zadeh, and Callies.

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
September 17, 2004